

REMARKS/ARGUMENTS

Reconsideration of this Application is respectfully requested. Claims 1, 2 and 4-7 are currently pending in the application. These remarks address items brought up by the examiner in the final Office Action. In view of the following remarks, favorable consideration and allowance of the application is respectfully requested.

Claim 1 has been amended to place it in a more readable condition. It is submitted that this minor amendment does not affect the patentability of claim 1.

Claims 1-2 and 4-7 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Whitbourne et al. (US Patent 6,110,483) in view of Elton (US Patent 5,160,790). Applicant respectfully traverses this ground of rejection.

The Examiner asserts that Whitbourne et al. discloses a radially expandable stent comprising a wire having a substantially uniform hydrogel coating layer thereon, wherein the layer has an average dry coating thickness of about 0.01 microns to about 25 microns, and wherein the layer has a biologically active agent and a biocompatible surface. To the contrary, Whitbourne et al. does not disclose these features. The coating thickness disclosed by Whitbourne et al. is “on the order of 2 to 100 microns, preferably less than about 50 microns....” While Whitbourne et al. discloses that the coating may be applied to various medical devices, including stents, there is no specific disclosure of a “radially expandable stent.” Finally, and most importantly, Whitbourne et al. does not disclose “a substantially uniform hydrogel coating layer.” All that is disclosed at the portion cited by the Examiner at column 20, lines 22-33, is that a wire coated with Whitbourne et al. technology “had a smooth, continuous arc....” There is no disclosure that the coating should have a standard deviation of no greater than 10 percent, as required by the instant claims. The fact that the coated wire was “smooth” implies that it was not “rough” or “uneven.” In other words, it implies that there was not a large, repeated variation in thickness of the coating over a short distance. This disclosure would cover a situation where there was a gradual tapering of the thickness of the coating over a distance. For example, the coating thickness could be 20 microns at one end of the wire and gradually and evenly taper to a thickness of 10 microns at the other end of the wire. The gradual change in thickness over a substantial longitudinal distance would still qualify the coating as being “smooth”(i.e., not rough or uneven), but in this example, the standard deviation

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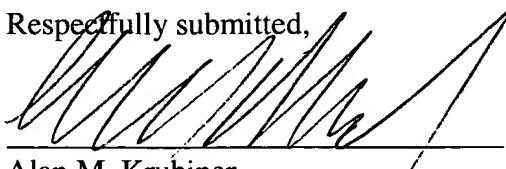
would be approximately 33 percent, substantially greater than the 10 percent set forth in the claims.

To make up for the deficiencies in the Whitbourne et al. disclosure the Examiner has cited Elton for the proposition that Elton "teaches a hydrogel coating that can be applied to a stent in a uniform continuous thickness." Applicant respectfully submits that the Examiner has misread and/or misconstrued the cited disclosure in Elton. This disclosure states that "the composition of the coating system is essentially uniform, and therefore any reasonable coating thickness can be achieved simply by varying the solids content" (emphasis added). It is clear that Elton is referring to the actual composition of the coating as being essentially uniform (i.e., essentially homogeneous), not the thickness of the coating. Accordingly, there is nothing in Elton to fill in the deficiencies of Whitbourne et al. admitted to by the Examiner and further emphasized by Applicant above.

Based on the above, there would be no reason for one having ordinary skill in the art at the time the invention was made to combine the teachings of Whitbourne et al. and Elton.

Conclusion

For the foregoing reasons, Applicant believes all the pending claims are currently in condition for allowance and should be passed to issue. An Advisory Action to this effect is respectfully requested. If the Examiner feels that a telephone conference would in any way expedite the prosecution of the application, please do not hesitate to call the undersigned at telephone (707) 543-5021.

Respectfully submitted,


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